IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA PLAINTIFF

VS. CRIMINAL NO. 3:16CR51-HTW-FKB

TERESA K. MALONE DEFENDANT

MOTION FOR CONTINUANCE

COMES NOW the Defendant, Teresa K. Malone, by and through counsel, and moves the Court pursuant to Rule 45 of the Federal Rules of Criminal Procedure for an order continuing the date set to plea currently scheduled in the above-styled cause, and in support thereof would show unto the Court the following:

1. That by agreement of the parties, a date for Defendant to enter a plea in this cause was scheduled for September 6, 2017, in Jackson, Mississippi;
2. That upon agreement of this date, undersigned counsel made the counsel for Plaintiff aware of a trial that he has scheduled on said same date; and that prior to said trial, a mediation was to be conducted;
3. That on this date, undersigned counsel conducted the mediation which proved to be futile; therefore, the parties will proceed with trial as currently set;
4. That a true and correct copy of the Agreed Scheduled Order that was entered on April 19, 2017 is attached hereto as "Exhibit A";
5. Further, undersigned counsel would show unto the Court that "A bona fide trial setting in one court will entitle an attorney to a continuance of other cases which may subsequently be called for setting in other courts." *Leonard v. Leonard*, 486 So.2d 1240 (Miss. 1986); and

6. This motion is not made for the purpose of delay or harassment, but for the fair administration of justice.

WHEREFORE, PREMISES CONSIDERED, your Defendant prays that this Motion for Continuance be filed and that upon due consideration by this Court, an Order of Continuance will be granted to your Defendant until further order of this Honorable Court.

Respectfully submitted, this the 25th day of August, 2017.

TERESA K. MALONE, Defendant

By: /s/James R. Franks, Jr.
JAMES R. FRANKS, JR. MSBN 100156
Counsel for Defendant

OF COUNSEL:

WHEELER & FRANKS LAW FIRM, P.C.
P.O. Box 681
Tupelo, MS 38802
Tel: (662) 842-0380
Fax: (662) 842-7491

CERTIFICATE OF SERVICE

I, James R. Franks, Jr., do hereby certify that I have this day filed via MEC the foregoing *Motion for Continuance* which has sent a copy via email to:

Darren J. LaMarca, Esq.
Office of the U.S. Attorney
501 E. Court Street, Ste. 4.430
Jackson, MS 39201-5025

This the 25th day of August, 2017.

/s/James R. Franks, Jr.
JAMES R. FRANKS, JR.

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EXHIBIT A

IN THE CIRCUIT COURT OF PONTOTOC COUNTY, MISSISSIPPI

JOHNNY MAULDIN PLAINTIFF

VS. CAUSE NO.: 2016-206P(PO)

JACOB SMITH DEFENDANT

AGREED SCHEDULING ORDER

THIS CAUSE, having come before the Court on the parties request for entry of an Agreed Scheduling Order setting deadlines pertinent to the litigation and a date for the Jury trial of this matter. Having considered the agreement of the parties, the Court hereby enters the following order to dictate the matters in this case:

1. All discovery, including all evidentiary depositions, shall be completed no later than **July 31, 2017**. Completion of discovery includes all supplementation of responses to discovery required by 26(f) of the Mississippi Rules of Civil Procedure;

2. The parties shall serve designations of their respective experts, together with statements of the subject matter on which each expert is expected to testify, the substance of the facts and opinions to which each expert is expected to testify and a summary of the grounds for each opinion, by the following dates:

   A. Plaintiff: **June 2, 2017;**

   B. Defendant: **July 7, 2017;**

3. All motions, both dispositive and nondispositive, shall be filed and served upon all parties no later than **August 11, 2017**, excepting only evidentiary in limine motions which shall be filed no later than 10 days prior to trial;

FILED
AUG 21 2017
CAROL GATES, CIRCUIT CLERK
DC

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4. The Jury trial of this matter shall be commenced on **September 5, 2017**, as a first setting in the Circuit Court of Pontotoc County, Mississippi, and will continue day to day thereafter until completed.

SO ORDERED, this the 19 day of April, 2017.

CIRCUIT COURT JUDGE

AGREED and APPROVED:

JAMES R. FRANKS
Mississippi Bar No. 100156
Attorney for plaintiff

J. BRIAN HYNEMAN
Mississippi Bar No. 99181
Attorney for defendant

ADMINISTRATOR
APR 19 2017
PROCESSED
NOT FILED

FILED
AUG 21 2017
CAROL GATES, CIRCUIT CLERK
DC

FILED
APR 27 2017
CIRCUIT COURT
PONTOTOC COUNTY